

EAST AYRSHIRE COUNCIL

SOUTHERN LOCAL PLANNING COMMITTEE : 16 JUNE 2000 00/0185/FL : PROPOSED CHANGE OF USE TO INCLUDE CAR SALES AND PORTACABIN/OFFICE AND NEW DOMESTIC ACCESS TOWER GARAGE, KILMARNOCK ROAD, MAUCHLINE

APPLICATION BY MR S HUNTER

Report by Head of Planning and Building Control

1. PURPOSE OF REPORT

1.1 The purpose of this report is to present for determination a full planning application which is to be considered by the Local Planning Committee under the scheme of delegation as it is contrary to policy and is subject to objection.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site forms part of the curtilage of the Tower Filling Station. To the north, there is the residential property of Craigknowe, to the south Tower Filling Station, restaurant and car park, to the west agricultural land and to the south east, Mauchline Garden Centre. The site is 0.565 hectares in area and was previously a general parking area associated with the Filling Station.

2.2 **Proposed Development:** This is a full planning application for a change of use to include car sales and portacabin/office at Tower Filling Station. The proposal also includes a new separate domestic access for the neighbouring residential property of Craigknowe. The proposal is retrospective as the car sales and portacabin have already been implemented on site. The proposal involves the siting of a maximum of 30 second-hand cars for sale. A portacabin will be erected to the rear of the site and will be used as an office for the car sales business. A 2-metre high timber fence will be erected along the rear periphery of the site.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council Roads and Transportation Division have advised that the Scottish Executive Development Department will advise on this application.

Noted.

3.2 The Scottish Executive Development Department – Road Network Management and Maintenance Division have no objection subject to

conditions regarding visibility splay areas, customer car parking spaces, the location of the access gate, vehicles entering and leaving in forward gear and construction of a new vehicular access.

The requirements of the Scottish Executive Development Department can be met by attaching conditions to the planning consent if granted. A Section 75 Legal Agreement will be required as the required visibility splay areas fall outwith the application site.

3.2 West of Scotland Water, The Coal Authority, British Gas Transco have no adverse comments to make on the proposed development.

Noted.

3.3 East Ayrshire Council Department of Community Services Environmental Health and Waste Management have no objection in principle to the development. The proposed car sales office/portacabin will fall within their jurisdiction for the enforcement of Health and Safety at work legislation.

Noted.

3.4 Mauchline Community Council and Scottish Power have not yet responded to the consultation letter.

Noted.

4. REPRESENTATIONS

Two letters of objection from the same two objectors.

4.1 The objectors have a formally constituted heritable right of access for vehicles along the front of the forecourt area where there was formerly a clearly defined access roadway parallel to Kilmarnock Road. The access way has been in continuous use in terms of the title since 1969. Entrance to this access roadway is gained from the entry/exit from the filling station to the right hand side looking from the road. They are now being denied access over the access roadway as vehicles for sale are being parked across the access way.

This is a legal matter between the objector and the applicant. However, the applicant has included a new access for the neighbouring property as part of this application.

4.2 The objector requires that the change of use and erection of a portacabin/office and the formation of the new access be considered together.

The present application is for car sales and portacabin/office and a new domestic access for the neighbouring residential property which are being considered as one proposal.

4.3 The plans exhibited by the objector show insufficient detail in relation to the formation of the new vehicular access/egress. No measurements are given and consent could not be reasonably granted on the information provided.

Both East Ayrshire Roads Division and The Scottish Executive Development Department - Roads Network Management and Maintenance Division have no objections to the above application subject to conditions. A scaled plan has been submitted showing the proposed access.

4.4 The sightlines do not comply with the measurements of the Trunk Roads Authority, especially those sightlines in the direction of Kilmarnock. The measurement of 165 metres extend well beyond the blind corner on the A76.

The required sightlines for the new access can be achieved on the ground, however they fall outwith the application site. A Section 75 Legal Agreement will be required between the Council, applicant and owner of an intervening hedge, in order that a section of the hedge is reduced to 1 metre in height and trimmed back to secure the sightline to the north of the site.

4.5 The objector is concerned that although the formal planning application is only now being lodged, the applicant is carrying on his business as if the necessary consents had already been granted.

The proposal is a retrospective application with the car sales and portacabin already being erected on site. The applicant was advised shortly after he commenced the use on site that he required planning consent for the proposed development.

5. DEVELOPMENT PLAN STATUS

5.1 The relevant policy document is the East Ayrshire Local Plan Finalised Version. The proposal is located within the settlement boundary of Mauchline and it is affected by Policies RTC17 and RTC18 of the above plan. Policy RTC17 considers that applications for the sale and display of motor vehicles will only be considered acceptable within town centre boundaries, on miscellaneous development opportunity sites specifically identified for such purposes on the Local Plan maps or on land located within existing industrial areas not specifically safeguarded for industrial purposes on the Local Plan maps.

The proposal is contrary to this policy, as the site is not located within the town centre of Mauchline or within an existing industrial area. The site has not been identified for this specific use, however the proposal can be considered as an exception to

policy as a range of uses operate from the site and immediate area, with which the sale of cars would be compatible.

5.2 Policy RTC18 states that all applications for the sale and display of motor vehicles will be assessed against the following criteria:-

- (i) the development being of a size and scale in keeping with its surroundings;
- (ii) the development being fully compatible with surrounding land uses and not being detrimental to the amenity of the area and
- (iii) the proposal meeting all the requirements of the Council as Roads Authority.

Where a proposal is consistent in principle with, or constitutes an acceptable exception to Policy RTC17, Policy RTC18 may then test the suitability of the site itself. There is a petrol filling station, shop, restaurant operating from the application site and a garden centre operating from premises on the opposite side of the road. The proposed use would be compatible with the surrounding uses. It is not considered that the proposed use would be detrimental to the area. The Roads Division and Scottish Executive Development Department Roads Network Management and Maintenance Division have no objections to the proposed development, provided their requirements are met.

5.3 The proposed development would not conflict with the policies of the Finalised Cumnock and Doon Valley District Wide Local Plan.

Noted, although for the purposes of determining applications, the Council has agreed that East Ayrshire Local Plan (Finalised Version) shall be the main policy document.

6. OTHER PLANNING CONSIDERATIONS

6.1 None.

7. FINANCIAL AND LEGAL IMPLICATIONS

7.1 Legal Implications : If the Committee are minded to approve this application, it will result in a requirement for the applicant and the adjacent landowner to enter into a Section 75 Agreement with the Council under the Town and Country Planning (Scotland) Act 1997 in order to reduce and maintain the hedge to the north of the site below 1 metre in height within the visibility splay area.

7.2 Financial Implications : There are no financial implications for the Council in the determination of this application.

8. CONCLUSIONS

8.1 The proposed use is contrary to Policy RTC17 of the East Ayrshire Local Plan Finalised Version, but given the nature of neighbouring uses is considered to be an acceptable exception to that policy which is consistent with Policy RTC18. This allows the sale and display of motor vehicles provided it is in keeping with its surroundings and is not detrimental to the amenity of the area. There are a number of uses in close proximity – petrol filling station, shop, restaurant, garden centre. The proposed use would be compatible with these uses, and would not have an adverse impact on the amenity of the area. The Roads Authority have no objections to the proposed development subject to a number of conditions. The majority of their requirements can be met by attaching conditions to the planning consent if granted. A Section 75 Legal Agreement will be required to achieve the required visibility sightlines which fall outwith the application site. With regard to the concerns expressed about the existing residential access, this is a legal matter, however the applicant has indicated proposals for a new separate access for the neighbouring residential property.

8.2 The proposal involves the erection of a portacabin for office and sales accommodation. It is considered that a temporary consent for 2 years may be appropriate due to the siting of the portacabin in a prominent location on the A76 and its proximity to the countryside.

9. RECOMMENDATION

9.1 It is recommended that the application be approved subject to the conditions indicated on the enclosed sheet and that the issue of the decision notice be withheld until the Solicitor to the Council has satisfactorily concluded a formal Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 with the applicants and neighbouring proprietors in relation to achieving, and the future maintenance of, the required visibility sightline splay areas.

Alan Neish
Head of Planning and Building Control
PC/SMB
06 June 2000
FV/DVM

LIST OF BACKGROUND PAPERS

1. Application form and plans.
2. Statutory notices/certificates.
3. Consultation responses.
4. Letters of objection.
5. East Ayrshire Local Plan Finalised Version.
6. Finalised Cumnock and Doon Valley District Wide Local Plan.

Implementation Officer : Pamela Clifford

AGENDA